

COMMISSION DIRECTIVE

ADMINISTRATIVE MATTER

☐

DATE _____

December 03, 2008

MOTOR CARRIER MATTER

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DOCKET NO.

2008-158-T

UTILITIES MATTER

☐

ORDER NO.

SUBJECT:

Docket No. 2008-158-T - Application of Paxton Van Lines, Incorporated d/b/a Paxton Van Lines of North Carolina, Incorporated, 511 Johnson Road, Charlotte, North Carolina 28206 (District At Large) for a Class E (Household Goods) Certificate of Public Convenience and Necessity for Operation of Motor Vehicle Carrier - A Hearing was Held on this Matter on September 24, 2008. Discuss this Matter with the Commission.

COMMISSION ACTION:

Move that this Commission grant the Application of Paxton Van Lines of North Carolina, Inc. for a Class E Household Goods Certificate of Public Convenience and Necessity for Operation of a Motor Vehicle Carrier. The intervenors in this case, all of whom are well-established carriers with long records of good service to South Carolina consumers, opposed the application on the grounds that the public convenience and necessity was already being served by the existing carriers, and that if Paxton's application for statewide authority were granted, the resulting market dilution would harm their respective businesses, and might impact quality of service and ultimately harm consumers. None of the intervenors asserted that the Applicant was not fit, willing or able to perform satisfactorily as a household goods carrier with statewide authority. Representatives of all of the intervenors testified persuasively that the economic downturn has had a significant negative impact on the household goods moving business. We are persuaded that the current recession has had a negative effect upon the moving business, but that fact, standing alone, is not enough to warrant denial of an application. In the Matter of Welch Moving and Storage, Inc., Docket No. 86-492-T, this Commission denied the petition of an Asheville, North Carolina company who had applied for statewide authority after hearing testimony from owners and officers of several existing statewide carriers about the poor condition of the economy and the adverse effect which would probably result if another statewide carrier were permitted to enter the South Carolina market. On appeal, in *Welch Moving and Storage Co., Inc. v. Pub. Serv. Comm'n of South Carolina*, 301 S.C. 259, 391 S.E.2d 556 (1990), the South Carolina Supreme Court reversed the Commission, citing the lack of other supporting evidence such as expert witness testimony or statistical surveys in the record. The Court concluded that detriment to the income of existing carriers was relevant, but not determinative of the question of whether an application should be denied. We are bound to apply the law as established by the South Carolina Supreme Court. The *Welch Moving and Storage* case represents clear precedent mandating approval of the pending application. Therefore, based upon the Applicant's uncontested showing that it is fit, willing, and able to perform satisfactorily as a statewide household goods carrier, and without additional evidence to support the intervenors' opposition to the application, I move that we grant the application.

PRESIDING: Fleming

SESSION: Regular

TIME: 2:30 p.m.

	MOTION	YES	NO	OTHER
CLYBURN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
MITCHELL	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
WHITFIELD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WRIGHT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Not Voting</u>

In Washington, DC, attending a roundtable discussion to discuss policy options and strategies for recycling spent nuclear fuel

RECORDED BY: J. Schmieding